

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Feb 25, 2020**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA (01) and  
NICHOLAS SEAN CARTER (02),

Defendants.

No. 2:20-cr-00005-SMJ-01  
2:20-cr-00005-SMJ-02

**ORDER GRANTING DEFENDANT  
CARTER'S (02) UNOPPOSED  
MOTION TO CONTINUE TRIAL  
DATE AND PRE-TRIAL  
CONFERENCE AND RESET  
DEADLINES**

**AMENDED<sup>1</sup> CASE  
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Nicholas Sean Carter's (02) Unopposed Motion to Continue Trial Date and Pre-Trial Conference and Reset Deadlines, ECF No. 34. Defense counsel Nicholas Marchi requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. In addition, Defendant Carter (02) has two other matters that maybe interrelated to this matter. Defendant Carter (02) supports counsel's request for a trial continuance for the articulated reasons. ECF No. 37. Stephanie Van Marter, appearing on behalf

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<sup>1</sup> This Order amends and supersedes in part the Court's February 4, 2020 Case Management Order, ECF No. 28.

1 of the Government, does not oppose the request. ECF No. 34 at 1. Co-defendant  
2 Pesina (01) supports the request for a trial continuance for the articulated reasons.  
3 ECF No. 35.

4 The Indictment was filed on January 22, 2020. ECF No. 1. Defense counsel  
5 appeared for Defendant Pesina (01) on January 28, 2020. ECF No. 22. Defense  
6 counsel appeared for Defendant Carter (02) on January 23, 2020. ECF No. 14. This  
7 is Defendant Carter's (02) first request for a continuance.

8 To ensure defense counsel is afforded adequate time to review discovery,  
9 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court  
10 grants the motion, extends the pretrial motion deadline, and resets the currently  
11 scheduled pretrial conference and trial dates. The Court finds that Defendant  
12 Carter's (02) continuance request is knowing, intelligent, and voluntary, and that  
13 the ends of justice served by granting a continuance outweigh the best interest of  
14 the public and Defendant in a speedy trial. The delay resulting from Defendant  
15 Carter's (02) motion is therefore excluded under the Speedy Trial Act.

16 Counsel are advised that all second or successive continuance requests will  
17 be closely scrutinized for the necessity of more time to effectively prepare, taking  
18 into account the exercise of due diligence.

19 Having considered the parties' proposed case schedule and deadlines, the  
20 Court now enters the following Amended Case Management Order, which sets forth

1 the deadlines, hearings, and requirements the parties will observe in this matter.<sup>2</sup> To  
2 the extent this Order conflicts with any previously entered Orders in this matter, this  
3 Order shall govern. All counsel are expected to carefully read and abide by this  
4 Order and such provisions of the current CMO which have not been superseded  
5 hereby. The Court will grant relief from the requirements in this Order only upon  
6 motion and good cause shown.

7 Accordingly, **IT IS HEREBY ORDERED:**

8 **1.** Defendant Carter's (02) Unopposed Motion to Continue Trial Date and  
9 Pre-Trial Conference and Reset Deadlines, **ECF No. 34**, is  
10 **GRANTED.**

11 **2.** The Court finds, given defense counsel's need for time to review  
12 discovery, prepare any pretrial motions, conduct investigation, and  
13 prepare for trial, that failing to grant a continuance would result in a  
14 miscarriage of justice and would deny defense counsel the reasonable  
15 time necessary for effective preparation, taking into account the  
16 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The  
17 Court, therefore, finds the ends of justice served by granting a  
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20 <sup>2</sup> Defense counsel included a proposed date for a suppression hearing. ECF No. 41  
at 3. However, no motion to suppress has been filed in this case. This amended case  
management order therefore does not include this proposed date.

1 continuance in this matter outweigh the best interest of the public and  
2 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

3 **3. Original CMO.** Counsel must review the provisions of the original  
4 February 4, 2020 CMO, ECF No. 28, and abide by those procedures  
5 which remain in full force and effect and are incorporated herein  
6 except for the new compliance deadlines in the following Summary of  
7 Amended Deadlines.

8 **4. Pretrial Conference**

9 A. The current pretrial conference date of March 5, 2020 is  
10 **STRICKEN** and **RESET** to May 28, 2020, at **9:00 A.M.** in  
11 **RICHLAND**. At this hearing, the Court will hear **ALL** pretrial  
12 motions that are noted for oral argument.

13 **B.** All Pretrial Conferences are scheduled to last no more than  
14 **thirty (30) minutes**, with each side allotted **fifteen (15)**  
15 **minutes** to present their own motions and resist motions by  
16 opposing counsel. If any party anticipates requiring longer than  
17 fifteen minutes, that party must notify the Courtroom Deputy at  
18 least seven (7) days prior to the hearing. **Any party who fails**  
19 **to provide this notice will be limited to fifteen (15) minutes.**

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5. **Trial.** The current trial date of March 30, 2020 is **STRICKEN** and **RESET** to **June 22, 2020**, at **9:00 A.M.** in **RICHLAND**. The **final** pretrial conference will begin at **8:30 A.M.**

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court **DECLARES EXCLUDABLE** from Speedy Trial Act calculations the period from **February 13, 2020**, the date defense counsel moved to continue, through **June 22, 2020**, the new trial date, as the period of delay granted for adequate preparation by counsel.


7. **Summary of Deadlines**

USAO Expert Notice Defense Expert	<b>April 3, 2020</b> <b>April 17, 2020</b>
All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	<b>April 17, 2020</b>
<b>PRETRIAL CONFERENCE</b> <b><i>Deadline for motions to continue trial</i></b>	<b>May 28, 2020</b> <b>9:00 A.M. - RICHLAND</b>
CIs' identities and willingness to be interviewed disclosed to Defendants. (if applicable)	<b>May 29, 2020</b>
Grand jury transcripts produced to Defendants. Case Agent: CIs: Other Witnesses:	<b>May 29, 2020</b> <b>May 29, 2020</b> <b>May 29, 2020</b>
Exhibit lists filed and emailed to the Court	<b>June 15, 2020</b>
Witness lists filed and emailed to the Court	<b>June 15, 2020</b>
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	<b>June 15, 2020</b>
Exhibit binders delivered to all parties and to the Court	<b>June 15, 2020</b>

1	Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	<b>June 15, 2020</b>
2	Trial notices filed with the Court	<b>June 17, 2020</b>
3	Technology readiness meeting (in-person)	<b>June 17, 2020</b>
4	<b>JURY TRIAL</b>	<b>June 22, 2020 9:00 A.M. - RICHLAND</b>

5 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
6 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals  
7 Service.

8 **DATED** this 25th day of February 2020.

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10 SALVADOR MENDEZ, JR.  
11 United States District Judge  
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